

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

FLAGSTAR BANK, FSB,

Plaintiff,

v.

RICHARD M. CULLIGAN, *et al.*,

Defendants.

Civ. Action No.: 15-0385(FLW)(DEA)

ORDER

THIS MATTER having been opened to the Court on an Order to Show Cause issued by the Court on April 15, 2014, directing Defendants to show cause for why this action should not be remanded to the Superior Court of New Jersey for lack of subject matter jurisdiction; the Honorable Douglas E. Arpert having issued a Report and Recommendation dated July 24, 2015, recommending that the Court remand this matter; it appearing that the Magistrate Judge found that Defendants removed this case on the basis of original jurisdiction, 28 U.S.C. § 1331, arguing that their counterclaims arise under federal law, *see* Order dated November 18, 2014; it appearing that the Supreme Court has repeatedly affirmed that the well-pleaded complaint rule designates the plaintiff as the only party who may establish original jurisdiction and has held that counterclaims arising under federal law, even when compulsory, are insufficient to create original jurisdiction, *see Vanden v. Discover Bank*, 556 U.S. 49, 60 (2009); it further appearing that Plaintiff only asserts state law causes of action in its Complaint and, further, that neither party asserts that diversity jurisdiction exists, *see* 28 U.S.C. § 1332; it therefore appearing that the Court lacks subject matter jurisdiction over this matter; it further appearing that Plaintiff has not filed any objections to the

Report and Recommendation; accordingly, for the reasons stated in the Magistrate Judge's Report and Recommendation:

IT IS on this 10th day of August, 2015,

ORDERED that the Magistrate Judge's Report and Recommendation dated July 24, 2015 is hereby **ADOPTED**; and it is further

ORDERED that the Complaint is **REMANDED** to the Superior Court of New Jersey, Ocean County, Chancery Division; it is further

ORDERED that this case be marked as **CLOSED**.

/s/ Freda L. Wolfson
Freda L. Wolfson
United States District Judge